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May 23, 2022

BY E.C.F.

Honorable Vera M. Scanlon
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Rayne Valentine v. City of New York, et al.,
21-CV-4867 (EK) (VMS)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and attorney for defendants City of New York, former Mayor DeBlasio, and former New York City Police Department Commissioner Dermot Shea in the above-referenced matter. For the reasons set forth below, it is respectfully requested that the Court, *sua sponte*, extend the time for the individually named defendants to answer or otherwise respond to the amended complaint. Plaintiff's counsel consents to this request.

By way of background, on August 29, 2021, plaintiff filed his original complaint naming the City, Mayor DeBlasio, Commissioner Shea, and PO Kasaji as defendants. (Docket Entry No.1). An answer was filed on behalf of the City, former Mayor DeBlasio and former Commissioner Shea on January 28, 2022. (Docket Entry No. 29). Upon information and belief, PO Kasaji was served on March 22, 2022. At that the time, however, there was an open IAB investigation concerning the underlying incident of which PO Kasaji was the subject. For that reason, this Office was unable to resolve representation with respect to PO Kasaji at that time. Plaintiff's counsel consented to – and the Court, *sua sponte*, granted – an enlargement of time for PO Kasjai to respond to the complaint. *See* Electronic Order Dated April 8, 2022.

On February 1, 2022, plaintiff filed an amended complaint ("AC") naming 17 additional police officers as defendants. (Docket Entry No. 30). This Office makes no representation as to the validity of service upon those individuals; nor has it made a representation decision concerning them as the complete IAB file concerning the underlying incident was only received by this Office on April 8, 2022. As such, a request for an extension of time is not made on behalf of the PO Kasjai or the 17 police officers named in the AC; but is hoped that the Court may, *sua sponte*,

extend the time by 30 days for those individuals to respond to the AC – from May 23, 2022 to June 22, 2022.

As indicated, this Office received the IAB file on April 8, 2022 and, accordingly, is now in the process of evaluating whether it can represent all 17 police officers named in the AC. As the Court is aware, before this Office may assume representation of a named defendant, it is required by General Municipal Law § 50-(k) to conduct an investigation into whether each such officer is eligible for representation. *See* N.Y. Gen. Mun. Law § 50-(k); *Mercurio v. City of New York*, 758 F.2d 862, 864-65 (2d Cir. 1985). Pursuant to § 50-(k)(2), this Office must first determine whether an individual employee “was acting within the scope of his public employment and in the discharge of his duties and was not in violation of any rule or regulation of his agency at the time the alleged act or omission occurred.” *See* § 50- (k)(2); *see also Mercurio*, 758 F.2d at 864-65; *Muniz v. City of New York*, No. 12-CV-719 (TPG), 2012 U.S. Dist. LEXIS 99826, at *4 (S.D.N.Y. July 17, 2012) (granting stay as to individual defendants pending resolution of internal agency investigation). Because this Office has only recently been informed that the IAB investigation has been completed and received the IAB file, additional time is needed to make a determination regarding representation as 17 police officers named in the AC.

For these reasons, it is respectfully requested that this Court, *sua sponte*, extend the time – until June 23, 2022 – for PO Kasaji and the additional 17 individuals named in AC to respond to the AC.

The undersigned thanks the Court for its consideration herein.

Respectfully submitted,

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cc: **BY ECF**
All Counsel of Record